extended the right of action for a tort to a stranger, to the contract of sale, provided he was specifically named in the contract. They should either have gone farther, or not so far; the result is sound, but the reasoning illogical.

In the United States, the case of *Thomas* v. *Winchester*, 6 N. Y. 397, is a leading one; but in it, as in the English cases, the underlying theory is thoroughly unsatisfactory. The decision proceeds on the ground that the defendant's negligence put human life in imminent danger. This may be advanced as an argument for requiring a greater degree of care than if the article manufactured and sold were not so dangerous, but it certainly is no reason for limiting the class of persons to whom that care is owed.

In this misleading state of authority it has been suggested that the rule of *George* v. *Skivington* should be extended to injured persons not specifically in the vendor's mind at the time of sale, provided such persons were members of the class by whom the vendor intended the article to be used, or by whom he might reasonably have contemplated that the article was likely to be used. The decision in *Schubert* v. *Clark* will be welcome to those to whom this seems the only reasonable and logical ground on which to rest the cases.

A WIFE'S RIGHT TO BE MISTRESS OF A HOME. — The case of *Shinn* v. *Shinn*, 24 Atl. Rep. 1022, has a head-note suited to interfere with the hopes of young lawyers of larger heart than practice. Mary B. Shinn filed, in the New Jersey Court of Chancery, a bill for support against her husband. Two weeks after his marriage Mr. Shinn had imported his bride into the home of his parents, a house already equipped with his father, mother, brother, sister, nephew, and niece. In this dwelling the young couple had a well-appointed bedroom, a piano in the parlor, and two seats at the family board. After a year's experience the wife removed herself and child to the home of her aged grandfather, alleging ill-treatment by her husband and family. There is no proof of this; and the result of the slight evidence seems to be that there was nothing beyond a general unpleasantness, in which the husband sympathized with his family. In the wife's brief correspondence with her husband after her departure, her only complaint is that she is not mistress of the house. Her husband offers, with natural coolness, to take her back; which she refuses, unless he will furnish her a house of her own, even if it consists of no more than two rooms.

After the complainant had rested her case, Mr. Shinn expressed willingness to provide a home. The further hearing was suspended; but when the Vice-Chancellor examined the new dwelling he decided that such a barely furnished shanty was a mere subterfuge, in the case of a man with circumstances as comfortable as those of Mr. Shinn. So Mr. Shinn is to pay alimony.

The head-note reads: "1. Every wife is entitled to a home corresponding with the circumstances and condition of her husband, over which she shall be permitted to preside as such wife, and it is the duty of the husband to furnish such home.

"2. A house over which others have entire control, and in which the husband and wife reside as boarders simply, is not such home."

The second part of this is startling enough. The notion that every wife has a right to keep house is one of which the general recognition would work a revolution in the domestic history of the race. Its effect on life in New York city, for instance, is rather hard to conceive. However, there is less ground for panic than one thinks at first, for the Vice-Chancellor's words are less sweeping than those of the maker of the head-note. "The correspondence shows that all Mrs. Shinn desired was a home in which she could be mistress. This every wife is entitled to." Mr. Shinn, however, "insisted upon the condition that she must either come back to him and live with him as a boarder, in the home of another," or in the shanty above referred to. There is nothing here to show that a suite in a Fifth Avenue boarding-house, where the landlady was no relative of the husband, might not have been a home over which the wife could satisfactorily preside as mistress. Still, the language is absurd enough, and the court does not mention an authority in the whole case. Surely none could be found for the proposition that the single fact that the husband forced his wife to "live with him as a boarder in the house of another" is ground for separate maintenance. Very possibly there may be facts in the case making the decree justifiable; but the language of the court, and still more that of the maker of the head-note, needs revision.

RECENT CASES.

AGENCY — ASSAULT ON SEAMAN BY CAPTAIN. — The owners of a vessel are not liable, even under the maritime law, for a wilful and malicious assault by the captain of the vessel on a seaman who refuses to obey a command on the plea of sickness; since, in committing the assault, he exceeds his authority. His command does not extend over the persons of the seamen beyond the infliction of usual and necessary punishment in case of disobedience or infraction of rules. 14 N. Y. Supp. 125, and 15 N. Y. Supp. 976, reversed. Maynard, Finch, and O'Brien, JJ., *dissent.* *Gabrielson* v. *Waydell et al.*, 31 N. E. Rep. 969 (N. Y.).

AGENCY — CONFUSION OF GOODS — PRINCIPAL AS PREFERRED CREDITOR. — *Held*, reversing the decision of the lower court, that when money of A, the principal, is mingled with that of B, the fiduciary, and A cannot identify his property in some form, mere enrichment of B's estate does not entitle A to be made a preferred creditor. *Northern Dakota Elevator Co.* v. *Clark*, 53 N. W. R. 175 (N. D.).

The case and the language of the court seem wrong. For if A, who trusted, not to B's solvency, but to his honor, can prove the fund for distribution is larger because of B's misappropriation, there is no reason why the general creditors should get the benefit of it at A's expense. Cf. *Peak* v. *Ellicott*, 30 Kan. 156; *Harrison* v. *Smith*, 83 Mo. 210; *Bowers* v. *Evans*, 71 Wis. 133.

CARRIERS — LIABILITY AS WAREHOUSEMEN — PROXIMATE CAUSE. — Goods transported by defendant, a common carrier, were placed in its depot on arriving at their destination. The consignee inquired for them on the following day but was told they had not arrived. While in the depot they were destroyed by fire. *Held*, that the company was liable for the value of the goods, as it was owing to its negligence in not delivering them, when demanded, that they were there to be destroyed. *East Tennessee, V. & G. Ry. Co.* v. *Kelly*, 20 S. W. Rep. 312 (Tenn.).

Compare 54 N. Y. 500, and 13 Gray 481. The latter case, representing the weight of authority, held that the defendant was not liable on facts similar to the above.

CONSTITUTIONAL LAW — APPORTIONMENT OF STATE INTO LEGISLATIVE DISTRICTS. — The Constitution of New York provides that, on a legislative apportionment, "each senate district shall contain, as nearly as may be, an equal number of inhabitants, . . . and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senatorial district except such county shall be